

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the First Amended  
Statement of Issues Against:

PAUL MILCIADES LOPEZ,

Respondent

Case No. 800-2015-016095

OAH No. 2015110219

**DECISION AFTER NON-ADOPTION**

This matter was heard by Julie Cabos-Owen, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), on January 20, 2016, in Los Angeles, California. Complainant was represented by Vivian H. Hara, Deputy Attorney General (DAG). Paul Milciades Lopez (Respondent) was present and was represented by Ronald S. Marks, Attorney at Law.

During the hearing of this matter, the ALJ was provided with Exhibit B-19 containing confidential information which is protected from disclosure to the public. In order to prevent the disclosure of confidential information, the ALJ, on the parties' joint motion, ordered that, following the use of Exhibit B-19 in preparation of the Proposed Decision, that exhibit would be placed under seal, and the exhibit shall remain under seal and shall not be opened, except by order of the Medical Board of California, by OAH, or by a reviewing court.

Oral and documentary evidence was received, and argument was heard. The record was left open to allow the parties to submit written closing arguments, which were timely filed. Complainant's Closing Argument was marked for identification as Exhibit 8 and lodged. Respondent's Written Closing Argument was marked for identification as Exhibit H and lodged. The record was closed, and the matter was submitted for decision on February 19, 2016.

A Proposed Decision was issued on March 9, 2016. On May 20, 2016, Panel A of the Medical Board of California issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by the Panel on July 28, 2016, with ALJ Mary-Margaret Anderson presiding. Complainant was represented by DAG Machaela Mingardi. Respondent was present and was represented by Ronald S. Marks. Panel A, having read and considered the entire record, including the transcripts and the exhibits, and having considered the written and oral arguments presented by Respondent and Complainant, hereby makes and enters this decision on the matter.



## FACTUAL FINDINGS

1. On October 20, 2015, Kimberly Kirchmeyer (Complainant) filed the Statement of Issues while acting in her official capacity as the Executive Director of the Medical Board of California (Board), Department of Consumer Affairs. On December 15, 2015, she filed the Amended Statement of Issues in her official capacity.

2. The original Statement of Issues was filed after the Board denied Respondent's Application for Physician's and Surgeon's License (Application) and Respondent requested a hearing.

3(a). On July 30, 1981, the Board issued Physician's and Surgeon's Certificate Number A 37210 (license) to Respondent.

3(b). On September 6, 2000, Respondent's renewal of his medical license was denied under Family Code section 17520 (failure to pay child support), and the license was suspended.

3(c). On January 31, 2001, the license expired and could not be renewed due to Respondent's failure to comply with child support orders. Thereafter, the license was canceled. Consequently, Respondent could not practice medicine in California without applying for and obtaining a new license.<sup>1</sup>

4(a). On January 15, 1987, the Board issued to Respondent Fictitious Name Permit (FNP) Number 13285 for Colton Valley Medical Group, Inc., at 502 W. Valley Boulevard, Colton, California. The FNP was canceled in 2000.<sup>2</sup>

4(b). On September 1, 2000, Respondent notified the President and Vice President of Colton Valley Medical Group, Inc., in writing that he would take an "indefinite leave of absence, in order to take care of the problems I have at the present, such as payment of Child Support." (Exhibit 3, p. 7.) Respondent also notified them in writing of the following:

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<sup>1</sup> Pursuant to Business and Professions Code section 2427, an expired license may be renewed at any time within five years after its expiration. Pursuant to Business and Professions Code section 2428, subdivision (a), "A person who fails to renew his or her license within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but that person may apply for and obtain a new license if he or she [meets several enumerated conditions for licensure]."

<sup>2</sup> Respondent obtained additional FNPs for the following entities: La Mirada Multi-Specialty Med., in La Mirada (issued December 10, 1987/expired February 28, 1988); Clinica Medica Vermont A Medical Group, in Los Angeles (issued May 8, 1990/expired May 31, 2000); and Alpha Latina Medical Group, in South Gate (issued November 18, 1993/expired November 30, 1995). These three FNPs were cancelled after expiration because they were no longer in operation. Respondent's prior involvement with these three entities has no bearing on his current license application.



I am hereby transferring and assigning any and all of the rights, ownership, authority and any other interest I may have over the above referenced Fictitious Name to Colton Valley Medical Group, Inc., and its Directors. I hereby recognize and declare that I have applied for and obtained this Fictitious Name in [sic] behalf and for the Corporation. You may delete or change my name from such a Fictitious Permit, and you are hereby authorize [sic] to procure all the necessary papers and documents from the Medical Board of California to such effect.

(Exhibit 3, p. 8.)

4(c). Thereafter, Respondent filed an Application for Cancellation of a Fictitious Name Permit with the Board.

5. Respondent's failure to pay child support occurred following a bitter divorce proceeding which resulted in him filing for bankruptcy. After his license suspension, Respondent left the United States and worked in the coffee industry for several years. Upon returning to the United States, Respondent spoke with his ex-wife and they resolved the child support issue.

6. In 2014, Respondent contacted the Board to inquire about regaining his medical license. He was informed that the Board had lost his licensing file and that he would have to resubmit all of the prior documentation with his application for licensure.

7. On June 30, 2014, Respondent signed and subsequently submitted his Application for Physician's and Surgeon's License (application).

8. The application was sent with a July 8, 2014 cover letter from Respondent's attorney stating, "Some of the information may not be exact and, for that reason, I endeavored to obtain a copy of the original licensure application. My request was denied but I was assured that any missing information could be obtained by the licensing section from the original application." (Exhibit B-2.)

9. As part of his license application in 2014, Respondent provided a copy of his State License Release from the State of California Health and Human Services Agency, Department of Child Support Services, dated April 17, 2014. This document indicated that Respondent's license was eligible for renewal under Family Code section 17520, subdivision (a).

10. Respondent included in his application a written caveat that he had provided information according to his best recollection. Respondent stated:

NOTE: I lost all of my papers and documents during my divorce and subsequent difficulties. Because of the divorce and legal issues I was forced to declare bankruptcy and I lost most of the belongings.

The dates in my application are what I remember. If I am making a mistake, is because I do not have any longer the original documents, and I am relying on memory. If there is such a mistake, I apologize. It is not because I am trying to deceive or make false statements. Just the lack of documentation.

(Exhibit 4, attachment C.)



11(a). Respondent obtained his medical degree in 1977 from the National University of Asuncion in Asuncion, Paraguay. After immigrating to the United States, he completed one year of residency in pediatrics at Columbus University in Chicago, Illinois from 1979 to 1980. He then completed a year of residency in internal medicine at Maryland General Hospital in Baltimore, Maryland from 1980 to 1981. Thereafter, he completed two years of residency in internal medicine at Loma Linda University Medical Center from 1981 to 1983.

11(b). In an August 27, 2014 letter, the Board informed Respondent that he would need to submit 13 additional documents to further process his application. These documents included: a revised Timeline of Activities form to document an uninterrupted timeline of activities from the end of medical school to the present; a Certificate of Medical Education, signed and affixed with the official medical school seal; his official medical school transcript; a certified copy of his medical school diploma and English translation, with the original signature of the dean and affixed with the official school seal; Certificates of Completion of ACGME Post Graduate Training for Respondent's three residencies; and a Certificate of Clinical Training.

11(c). It was difficult for Respondent to obtain a copy of his diploma and transcripts from medical school, which had to be translated into English and certified as true and correct. Since Respondent had graduated over 30 years prior and no longer had contacts in Paraguay to assist him, the process was long and difficult. In his testimony, he noted that he was "asking for things that [entities] did not have anymore," and he had to "figure out where to go" to obtain the required documentation.

12. On September 16, 2014, Respondent's attorney sent the Board the documentation and information requested in its August 27, 2014 letter. Respondent's counsel noted:

I would like to emphasize that my client is not a new applicant and many of the documents and information requested is already in the possession of the Board. When I requested copies of his original application and supporting documents, my request was denied. This has forced [Respondent] to spend, what I consider, unnecessary effort to locate "ancient" documentation.

I would appreciate it if you would give him the consideration of a licensee of the Board whose license was suspended over a child support dispute and not because it was revoked due to patient harm.

(Exhibit B-6.)

13. On November 12, 2014, the Board sent Respondent a letter advising him:

After careful consideration, it was determined that you will need to undergo an independent assessment to rule out any factors that may compromise your ability to provide safe patient care as an independent practitioner. The required evaluation is a clinical skill evaluation through the Physician Assessment and Clinical Education (PACE) Program at the University of California, San Diego



School of Medicine. . . . [¶] . . . The results of your evaluation through the PACE program will be provided to the Board staff for review.

(Exhibit B-8.)

14. Respondent accepted the Board's condition and enrolled in the PACE Program. Respondent completed Phase I of the PACE Program on November 6-7, 2014, and he completed Phase II on April 6-10, 2015.

15. On June 15, 2015, the PACE Program issued its report on Respondent's performance and sent it to the Board.

16(a). The PACE report indicated that, during Phase I:

[Respondent exhibited] low average medical knowledge and clinical judgment. Despite being out of practice for 10 years, he seemed to have reasonably current knowledge. In addition, following his oral clinical exam, he researched some of his incorrect responses, and mailed [PACE] corrected responses with references, which showed impressive dedication to his performance. [At that time, PACE opined] that he could return to medical practice with supervision.

[¶] . . . [¶]

[Respondent] took unfavorable actions on two cases; one *Risky* and one *Harmful*. Unfavorable actions are classified as inappropriate, risky or harmful based on the level of intrusiveness and potential harm to the patient. *Risky* actions pose a moderate risk to the patient and may include non-indicated pharmacotherapy or invasive procedures. *Harmful* actions pose substantial risk to the patient and include organ-system or life-threatening procedures that are not indicated for treatment.

(Exhibit 5, pp. 4 - 5.)

16(b). PACE's summary and recommendations following Phase I were as follows:

Overall, [Respondent's] performance on the Phase I, two-day assessment was varied. His performance of the history and physical exam on the mock patient was minimally acceptable. His performance on the oral exam . . . was acceptable overall; however, he performed in the unsatisfactory range on two cases and displayed low average medical knowledge overall. [Respondent's] performance on the . . . computerized case management examination and subsequent . . . interview was acceptable overall. Finally, in terms of written exams, he scored in the 22<sup>nd</sup> percentile on the Ethics and Communication exam, in the 79<sup>th</sup> percentile on the Internal Medicine Clinical Science Subject exam, and in the 24<sup>th</sup> percentile on the Mechanisms of Disease exam. We generally do not regard the two-day Phase I assessment sufficient to make judgments about competence. To ensure completeness of evaluation, [Respondent] should return for Phase II in order to complete the assessment process and obtain an official final grade. The faculty and staff of the UCSD



PACE Program regard the Phase I and Phase II components of the assessment as complementary and necessary for complete, informed judgments regarding competence and safety for practice. . . .

(Exhibit 5, p. 7.)

16(c). PACE's summary and recommendations following Phase II were as follows:

[Respondent's] participation was rated as satisfactory to superior by all of the faculty he worked with. He appropriately participated in discussions with the faculty as well as the patients.....

[¶] . . . [¶]

[Respondent] is not the most up-to-date on present screening guidelines or some of the newer meds, but he seems very eager and interested to learn. He seemed to be able to reference recent cardiovascular advances/meds/treatments, but lacked some basic primary care knowledge...his decision making appears to be not quite up-to-date.

[¶] . . . [¶]

In summary, [Respondent] seems to be a capable physician whose performance was overall satisfactory. His medical knowledge is not completely up-to-date, but given the fact that he has been out of clinical practice for many years, he has done a reasonable good job of keeping up with current literature. He also seems to be aware of his limitations, and knows how to access current medical information. [Respondent] is very eager to resume medical practice, and is motivated to do a good job. He knows he will need to continue to work on updating his knowledge, and states he knows when to ask for help. I think given his self-awareness and motivation, he should be safe to resume practicing medicine.

(*Id.* at pp. 8-10.)

16(d). PACE noted that Respondent "demonstrated very good history-taking skills on all cases," "satisfactory physical examination skills," and that his "clinical judgment was superior for all cases except for one (Case 4 and it was satisfactory). He demonstrated very good medical knowledge and considered an appropriate differential diagnosis throughout."

(*Id.* at pp. 10-11.) PACE noted that Respondent's "average overall clinical competence score was 6.6 which places him near superior. The only recommendation would be to brush up on some physical examination skills. He otherwise performed quite well." (*Id.* at p. 11.)

16(e). PACE concluded: "[Respondent's] overall performance on Phase II was satisfactory. . . . Despite his satisfactory performance, some of the faculty that worked with [Respondent] noted that his knowledge was outdated. Therefore, we recommend [Respondent] obtain additional CME education during the first two years of his return to active practice. Specifically, he should obtain 50 CME credits per year for two years." (*Id.* at pp. 11-12.)



16(f). Respondent's overall performance at PACE resulted in his receiving a "Pass with Recommendations – Category 2." (*Id.* at p.12.) This category is described by PACE as follows: "Signifies a performance during which minor deficiencies were noted that do not affect the physician's ability to practice safely, but may have an effect on optimal performance. Physicians in this category performed competently overall, but did sub-optimally on one or more aspects of the assessment. Recommendations for how to remediate deficiencies will be outlined." (*Id.*)

17. After review of the PACE assessment, the Board offered Respondent a probationary license with terms and conditions including 50 additional CME units per year and a supervision requirement (no solo practice). Respondent was amenable to a probationary license but declined the supervision requirement.

18. On September 17, 2015, the Board sent Respondent a letter advising him that his license application was denied pursuant to Business and Professions Code section 2221.

19(a). The original Statement of Issues contained a single cause for denial "under section 2221 of the Code," alleging that the Board "denied the license application based upon the findings of the PACE Program under sections 2221(a) and 2234(d)." (Exhibit 1, Statement of Issues, p. 6.) The cited Code sections allow denial of an application for "unprofessional conduct," including "incompetence."

19(b). The Amended Statement of Issues added "dishonest acts" and "holding himself out as a physician and surgeon" as causes for denial of the license application.

20(a). The "dishonest acts" alleged by Complainant pertain to Respondent's answering "No" to the following questions on his application regarding his post graduate training:

- 24. Have you ever received partial or no credit for postgraduate training program?
- 27. Have you ever resigned from a program?
- 28. Were you ever placed on probation for any reason?
- 29. Were you ever disciplined or placed under investigation?
- 30. Were any incident reports ever filed by instructors?

(Exhibit 4, attachment A, p. 3.)

20(b). In September of 2014, the Board received from Loma Linda University Medical Center's Graduate Medical Education Office documentation indicating that Respondent's answers to the above questions were inaccurate.

20(c). At the administrative hearing, Respondent acknowledged that he should have reviewed the application better and should not have just checked "no" for all the post graduate training questions. He "take[s] full responsibility" for his failure to "put the truth in the application." He admitted that when he filled out the application, he was focused on expediting the lengthy process and



“just wanted to get over this.” He also admitted that when asked to explain his incorrect answers, his written response was framed in a way to “put [him] in a good light,” which “was wrong.”

21(a). In alleging that Respondent was “holding himself out as a physician and surgeon,” Complainant pointed to Respondent’s current employment and several Internet website pages located by Complainant’s counsel.

21(b). Respondent is currently employed at Colton Valley Medical Care, Inc., in Colton, California. The practice is located at the same office location Respondent had previously practiced prior to canceling the FNP for his prior practice, Colton Valley Medical Group, Inc. Respondent has been employed at Colton Valley Medical Care, Inc. as a Medical Care Coordinator, interacting with patients and ensuring that referrals are properly made and approved. There are always one to two physicians or a nurse practitioner on the premises to see patients. Respondent testified credibly that he does not treat patients or act as a physician. His testimony was corroborated by statements given by staff to a Board Investigator who visited the office and inquired about Respondent’s employment responsibilities.

21(c). Complainant’s counsel submitted a declaration with copies of Internet website pages she found referring to “Paul M. Lopez, M.D.” Several list a Paul M. Lopez, M.D., practicing at the now dissolved Colton Valley Medical Group, Inc. There was no testimony or other evidence to establish who created the web pages or when they were created. Respondent testified credibly that he has never seen the websites, that he never authorized anyone to list him as a practicing physician since 2001, and that he was not aware of anyone listing him as practicing medicine since 2001. Given the foregoing, Complainant failed to establish that Respondent is holding himself out as a physician and surgeon.

## LEGAL CONCLUSIONS

1(a). Cause does not exist to deny Respondent’s application for a physician’s and surgeon’s license, pursuant to Business and Professions Code section 2221, as Complainant alleges. (Factual Findings 3 through 21; Legal Conclusions 1(b) through 1(e).)

1(b). The Amended Statement of Issues, paragraph 19, asserts that Respondent’s application is subject to denial under Business and Professions Code section 2221, subdivision (a) and 2234, subdivision (d), “based upon the findings of the PACE Program.” However, Business and Professions Code section 2221 does not contain the basis for denial asserted by Complainant.

1(c). Business and Professions Code section 2221 provides:

(a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.



(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(c) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

1(d). According to Business and Professions Code section 2234, subdivision (d), unprofessional conduct includes "incompetence."

1(e). Complainant did not establish that successful completion of PACE with a recommendation for additional CME hours was a basis for denial of a license application under Business and Professions Code section 2221 or 2234, subdivision (d). The evidence did not establish that Respondent engaged in unprofessional conduct or that he demonstrated incompetence. Rather, PACE concluded that Respondent's overall performance as a physician was satisfactory, albeit with an acknowledgment that Respondent's medical knowledge "is not completely up-to-date."

2(a). Cause does not exist to deny Respondent's application for a physician's and surgeon's license, pursuant to Business and Professions Code sections 2234, subdivision (a) and (e), and 480, subdivisions (a)(2) and (a)(3), on the grounds of dishonesty, as Complainant alleges. (Factual Findings 3 through 21; Legal Conclusion 2(b).)



2(b). Although Respondent provided inaccurate information in his application, he did not intend to deceive, and the inaccuracies pertained to events from decades prior. Respondent included the caveat in his application that the information he was providing was based on his best recollection and that he was not trying to be deceitful. Moreover, specifically regarding the Loma Linda residency issue, Respondent's fallacy pertains to facts which are immaterial to determining Respondent's current fitness to practice medicine. Respondent was licensed and practiced medicine for 20 years without discipline following completion of his residency, and at this point in time, his performance as a resident is inessential to the re-issuance of his license. The insignificance of his residency to the current determination of fitness is underscored by fact that Complainant's denial letter and original Statement of Issues did not include allegations pertaining to the Loma Linda inaccuracies.

3. Cause does not exist to deny Respondent's application for a physician's and surgeon's license, pursuant to Business and Professions Code sections 2052, 2054 or 2234, in that Complainant failed to prove that Respondent is holding himself out as a physician and surgeon. (Factual Finding 21.)

4. Although there is no cause to deny Respondent's application, the Board has the discretion to issue a probationary license subject to appropriate terms and conditions, and there is cause to do so here. (Bus. & Prof. Code, § 2221, subd. (a).) In this case, based on the PACE Program findings during Phases I and II (Factual Findings 16(a) - (e)) and the long period of time that Respondent has not engaged in the practice of medicine, the appropriate terms and conditions include two years' probation with the Board's standard terms and conditions; 50 additional CME credits per year during the probationary period; and a practice monitor to review patient charts to ensure that Respondent is practicing medicine within the standard of care.

## ORDER

Respondent, Paul Milciades Lopez's application for a Physician's and Surgeon's License is granted under the following conditions: Respondent shall be issued a probationary license for two years subject to the following terms and conditions:

### **1. Education Course**

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 50 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 75 hours of CME of which 50 hours were in satisfaction of this condition.



## **2. Monitoring - Practice**

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.



In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

### **3. Notification**

Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

### **4. Supervision of Physician Assistants**

During probation, Respondent is prohibited from supervising physician assistants.

### **5. Obey All Laws**

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

### **6. Quarterly Declarations**

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

### **7. General Probation Requirements**

#### **Compliance with Probation Unit**

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

#### **Address Changes**

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall



a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

#### Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

#### License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

#### Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

### **8. Interview with the Board or its Designee**

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

### **9. Non-practice While on Probation**

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.



Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

#### **10. Completion of Probation**

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

#### **11. Violation of Probation**

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

#### **12. License Surrender**

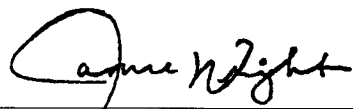
Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

#### **13. Probation Monitoring Costs**


Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

This Decision shall become effective at 5:00 p.m. on September 16, 2016.

IT IS SO ORDERED August 18, 2016.

  
\_\_\_\_\_  
Jamie Wright, J.D., Chair  
Panel A



  
Jamie Wright, Esq., Chair  
Panel A



BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

PAUL MILCIADES LOPEZ,

Respondent.

Case No. 800-2015-016095

OAH No. 2015110219

**PROPOSED DECISION**

This matter was heard by Julie Cabos-Owen, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), on January 20, 2016, in Los Angeles, California. Complainant was represented by Vivian H. Hara, Deputy Attorney General. Paul Milciades Lopez (Respondent) was present and was represented by Ronald S. Marks, Attorney at Law.

During the hearing of this matter, the ALJ was provided with Exhibit B-19 containing confidential information which is protected from disclosure to the public. In order to prevent the disclosure of confidential information, the ALJ, on the parties' joint motion, ordered that, following the use of Exhibit B-19 in preparation of the Proposed Decision, that exhibit would be placed under seal, and the exhibit shall remain under seal and shall not be opened, except by order of the Medical Board of California , by OAH, or by a reviewing court.

Oral and documentary evidence was received, and argument was heard. The record was left open to allow the parties to submit written closing arguments, which were timely filed. Complainant's Closing Argument was marked for identification as Exhibit 8 and lodged. Respondent's Written Closing Argument was marked for identification as Exhibit H and lodged. The record was closed, and the matter was submitted for decision on February 19, 2016.

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## FACTUAL FINDINGS

1. On October 20, 2015, Kimberly Kirchmeyer (Complainant) filed the Statement of Issues while acting in her official capacity as the Executive Director of the Medical Board of California (Board), Department of Consumer Affairs. On December 15, 2015, she filed the Amended Statement of Issues in her official capacity.

2. The original Statement of Issues was filed after the Board denied Respondent's Application for Physician's and Surgeon's License (Application) and Respondent requested a hearing.

3(a). On July 30, 1981, the Board issued Physician's and Surgeon's Certificate Number A 37210 (license) to Respondent.

3(b). On September 6, 2000, Respondent's renewal of his medical license was denied under Family Code section 17520 (failure to pay child support), and the license was suspended.

3(c). On January 31, 2001, the license expired and could not be renewed due to Respondent's failure to comply with child support orders. Thereafter, the license was canceled. Consequently, Respondent could not practice medicine in California without applying for and obtaining a new license.<sup>1</sup>

4(a). On January 15, 1987, the Board issued to Respondent Fictitious Name Permit (FNP) Number 13285 for Colton Valley Medical Group, Inc., at 502 W. Valley Boulevard, Colton, California. The FNP was canceled in 2000.<sup>2</sup>

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<sup>1</sup> Pursuant to Business and Professions Code section 2427, an expired license may be renewed at any time within five years after its expiration. Pursuant to Business and Professions Code section 2428, subdivision (a), "A person who fails to renew his or her license within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but that person may apply for and obtain a new license if he or she [meets several enumerated conditions for licensure]."

<sup>2</sup> Respondent obtained additional FNPs for the following entities: La Mirada Multi-Specialty Med., in La Mirada (issued December 10, 1987/expired February 28, 1988); Clinica Medica Vermont A Medical Group, in Los Angeles (issued May 8, 1990/expired May 31, 2000); and Alpha Latina Medical Group, in South Gate (issued November 18, 1993/expired November 30, 1995). These three FNPs were cancelled after expiration because they were no longer in operation. Respondent's prior involvement with these three entities has no bearing on his current license application.



4(b). On September 1, 2000, Respondent notified the President and Vice President of Colton Valley Medical Group, Inc., in writing that he would take an “indefinite leave of absence, in order to take care of the problems I have at the present, such as payment of Child Support.” (Exhibit 3, p. 7.) Respondent also notified them in writing of the following:

I am hereby transferring and assigning any and all of the rights, ownership, authority and any other interest I may have over the above referenced Fictitious Name to Colton Valley Medical Group, Inc., and its Directors. I hereby recognize and declare that I have applied for and obtained this Fictitious Name in [sic] behalf and for the Corporation. You may delete or change my name from such a Fictitious Permit, and you are hereby authorize [sic] to procure all the necessary papers and documents from the Medical Board of California to such effect.

(Exhibit 3, p. 8.)

4(c). Thereafter, Respondent filed an Application for Cancellation of a Fictitious Name Permit with the Board.

5. Respondent’s failure to pay child support occurred following a bitter divorce proceeding which resulted in him filing for bankruptcy. After his license suspension, Respondent left the United States and worked in the coffee industry for several years. Upon returning to the United States, Respondent spoke with his ex-wife and they resolved the child support issue.

6. In 2014, Respondent contacted the Board to inquire about regaining his medical license. He was informed that the Board had lost his licensing file and that he would have to resubmit all of the prior documentation with his application for licensure.

7. On June 30, 2014, Respondent signed and subsequently submitted his Application for Physician’s and Surgeon’s License (application).

8. The application was sent with a July 8, 2014 cover letter from Respondent’s attorney stating, “Some of the information may not be exact and, for that reason, I endeavored to obtain a copy of the original licensure application. My request was denied but I was assured that any missing information could be obtained by the licensing section from the original application.” (Exhibit B-2.)

9. As part of his license application in 2014, Respondent provided a copy of his State License Release from the State of California Health and Human Services Agency, Department of Child Support Services, dated April 17, 2014. This document indicated that Respondent’s license was eligible for renewal under Family Code section 17520, subdivision (a).

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10. Respondent included in his application a written caveat that he had provided information according to his best recollection. Respondent stated:

NOTE: I lost all of my papers and documents during my divorce and subsequent difficulties. Because of the divorce and legal issues I was forced to declare bankruptcy and I lost most of the belongings.

The dates in my application are what I remember. If I am making a mistake, is because I do not have any longer the original documents, and I am relying on memory. If there is such a mistake, I apologize. It is not because I am trying to deceive or make false statements. Just the lack of documentation.

(Exhibit 4, attachment C.)

11(a). Respondent obtained his medical degree in 1977 from the National University of Asuncion in Asuncion, Paraguay. After immigrating to the United States, he completed one year of residency in pediatrics at Columbus University in Chicago, Illinois from 1979 to 1980. He then completed a year of residency in internal medicine at Maryland General Hospital in Baltimore, Maryland from 1980 to 1981. Thereafter, he completed two years of residency in internal medicine at Loma Linda University Medical Center from 1981 to 1983.

11(b). In an August 27, 2014 letter, the Board informed Respondent that he would need to submit 13 additional documents to further process his application. These documents included: a revised Timeline of Activities form to document an uninterrupted timeline of activities from the end of medical school to the present; a Certificate of Medical Education, signed and affixed with the official medical school seal; his official medical school transcript; a certified copy of his medical school diploma and English translation, with the original signature of the dean and affixed with the official school seal; Certificates of Completion of ACGME Post Graduate Training for Respondent's three residencies; and a Certificate of Clinical Training.

11(c). It was difficult for Respondent to obtain a copy of his diploma and transcripts from medical school, which had to be translated into English and certified as true and correct. Since Respondent had graduated over 30 years prior and no longer had contacts in Paraguay to assist him, the process was long and difficult. In his testimony, he noted that he was "asking for things that [entities] did not have anymore," and he had to "figure out where to go" to obtain the required documentation.

12. On September 16, 2014, Respondent's attorney sent the Board the documentation and information requested in its August 27, 2014 letter. Respondent's counsel noted:

I would like to emphasize that my client is not a new applicant and many of the documents and information requested is already in the possession of the Board. When I requested copies of his original



application and supporting documents, my request was denied. This has forced [Respondent] to spend, what I consider, unnecessary effort to locate “ancient” documentation.

I would appreciate it if you would give him the consideration of a licensee of the Board whose license was suspended over a child support dispute and not because it was revoked due to patient harm.

(Exhibit B-6.)

13. On November 12, 2014, the Board sent Respondent a letter advising him:

After careful consideration, it was determined that you will need to undergo an independent assessment to rule out any factors that may compromise your ability to provide safe patient care as an independent practitioner. The required evaluation is a clinical skill evaluation through the Physician Assessment and Clinical Education (PACE) Program at the University of California, San Diego School of Medicine. . . . [¶] . . . The results of your evaluation through the PACE program will be provided to the Board staff for review.

(Exhibit B-8.)

14. Respondent accepted the Board’s condition and enrolled in the PACE Program. Respondent completed Phase I of the PACE Program on November 6-7, 2014, and he completed Phase II on April 6-10, 2015.

15. On June 15, 2015, the PACE Program issued its report on Respondent’s performance and sent it to the Board.

- 16(a). The PACE report indicated that, during Phase I:

[Respondent exhibited] low average medical knowledge and clinical judgment. Despite being out of practice for 10 years, he seemed to have reasonably current knowledge. In addition, following his oral clinical exam, he researched some of his incorrect responses, and mailed [PACE] corrected responses with references, which showed impressive dedication to his performance. [At that time, PACE opined] that he could return to medical practice with supervision.

(Exhibit 5, p. 5.)

- 16(b). PACE’s summary and recommendations following Phase I were as follows:

Overall, [Respondent’s] performance on the Phase I, two-day assessment was varied. His performance of the history and physical exam on the mock patient was minimally acceptable. His performance on the oral exam . . . was acceptable overall; however, he performed in



the unsatisfactory range on two cases and displayed low average medical knowledge overall. [Respondent's] performance on the . . . computerized case management examination and subsequent . . . interview was acceptable overall. Finally, in terms of written exams, he scored in the 22<sup>nd</sup> percentile on the Ethics and Communication exam, in the 79<sup>th</sup> percentile on the Internal Medicine Clinical Science Subject exam, and in the 24<sup>th</sup> percentile on the Mechanisms of Disease exam.

We generally do not regard the two-day Phase I assessment sufficient to make judgments about competence. To ensure completeness of evaluation, [Respondent] should return for Phase II in order to complete the assessment process and obtain an official final grade. The faculty and staff of the UCSD PACE Program regard the Phase I and Phase II components of the assessment as complementary and necessary for complete, informed judgments regarding competence and safety for practice. . . .

(Exhibit 5, p. 7.)

16(c). PACE's summary and recommendations following Phase II were as follows:

[Respondent's] participation was rated as satisfactory to superior by all of the faculty he worked with. He appropriately participated in discussions with the faculty as well as the patients.....

[¶] . . . [¶]

In summary, [Respondent] seems to be a capable physician whose performance was overall satisfactory. His medical knowledge is not completely up-to-date, but given the fact that he has been out of clinical practice for many years, he has done a reasonable good job of keeping up with current literature. He also seems to be aware of his limitations, and knows how to access current medical information. [Respondent] is very eager to resume medical practice, and is motivated to do a good job. He knows he will need to continue to work on updating his knowledge, and states he knows when to ask for help. I think given his self-awareness and motivation, he should be safe to resume practicing medicine.

(*Id.* at pp. 8-10.)

16(d). PACE noted that Respondent “demonstrated very good history-taking skills on all cases,” “satisfactory physical examination skills,” and that his “clinical judgment was superior for all cases except for one (Case 4 and it was satisfactory). He demonstrated very good medical knowledge and considered an appropriate differential diagnosis throughout.” (*Id.* at pp. 10-11.) PACE noted that Respondent's “average overall clinical competence



score was 6.6 which places him near superior. The only recommendation would be to brush up on some physical examination skills. He otherwise performed quite well.” (*Id.* at p. 11.)

16(e). PACE concluded: “[Respondent’s] overall performance on Phase II was satisfactory. . . . Despite his satisfactory performance, some of the faculty that worked with [Respondent] noted that his knowledge was outdated. Therefore, we recommend [Respondent] obtain additional CME education during the first two years of his return to active practice. Specifically, he should obtain 50 CME credits per year for two years.” (*Id.* at pp. 11-12.)

16(f). Respondent’s overall performance at PACE resulted in his receiving a “Pass with Recommendations – Category 2.” (*Id.* at p.12.) This category is described by PACE as follows: “Signifies a performance during which minor deficiencies were noted that do not affect the physician’s ability to practice safely, but may have an effect on optimal performance. Physicians in this category performed competently overall, but did sub-optimally on one or more aspects of the assessment. Recommendations for how to remediate deficiencies will be outlined.” (*Id.*)

17. After review of the PACE assessment, the Board offered Respondent a probationary license with terms and conditions including 50 additional CME units per year and a supervision requirement (no solo practice). Respondent was amenable to a probationary license but declined the supervision requirement.

18. On September 17, 2015, the Board sent Respondent a letter advising him that his license application was denied pursuant to Business and Professions Code section 2221.

19(a). The original Statement of Issues contained a single cause for denial “under section 2221 of the Code,” alleging that the Board “denied the license application based upon the findings of the PACE Program under sections 2221(a) and 2234(d).” (Exhibit 1, Statement of Issues, p. 6.) The cited Code sections allow denial of an application for “unprofessional conduct,” including “incompetence.”

19(b). The Amended Statement of Issues added “dishonest acts” and “holding himself out as a physician and surgeon” as causes for denial of the license application.

20(a). The “dishonest acts” alleged by Complainant pertain to Respondent’s answering “No” to the following questions on his application regarding his post graduate training:

24. Have you ever received partial or no credit for postgraduate training program?

27. Have you ever resigned from a program?

28. Were you ever placed on probation for any reason?



29. Were you ever disciplined or placed under investigation?

30. Were any incident reports ever filed by instructors?

(Exhibit 4, attachment A, p. 3.)

20(b). In September of 2014, the Board received from Loma Linda University Medical Center's Graduate Medical Education Office documentation indicating that Respondent's answers to the above questions were inaccurate.

20(c). At the administrative hearing, Respondent acknowledged that he should have reviewed the application better and should not have just checked "no" for all the post graduate training questions. He "take[s] full responsibility" for his failure to "put the truth in the application." He admitted that when he filled out the application, he was focused on expediting the lengthy process and "just wanted to get over this." He also admitted that when asked to explain his incorrect answers, his written response was framed in a way to "put [him] in a good light," which "was wrong."

21(a). In alleging that Respondent was "holding himself out as a physician and surgeon," Complainant pointed to Respondent's current employment and several Internet website pages located by Complainant's counsel.

21(b). Respondent is currently employed at Colton Valley Medical Care, Inc., in Colton, California. The practice is located at the same office location Respondent had previously practiced prior to canceling the FNP for his prior practice, Colton Valley Medical Group, Inc. Respondent has been employed at Colton Valley Medical Care, Inc. as a Medical Care Coordinator, interacting with patients and ensuring that referrals are properly made and approved. There are always one to two physicians or a nurse practitioner on the premises to see patients. Respondent testified credibly that he does not treat patients or act as a physician. His testimony was corroborated by statements given by staff to a Board Investigator who visited the office and inquired about Respondent's employment responsibilities.

21(c). Complainant's counsel submitted a declaration with copies of Internet website pages she found referring to "Paul M. Lopez, M.D." Several list a Paul M. Lopez, M.D., practicing at the now dissolved Colton Valley Medical Group, Inc. There was no testimony or other evidence to establish who created the web pages or when they were created. Respondent testified credibly that he has never seen the websites, that he never authorized anyone to list him as a practicing physician since 2001, and that he was not aware of anyone listing him as practicing medicine since 2001. Given the foregoing, Complainant failed to establish that Respondent is holding himself out as a physician and surgeon.

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## LEGAL CONCLUSIONS

1(a). Cause does not exist to deny Respondent's application for a physician's and surgeon's license, pursuant to Business and Professions Code section 2221, as Complainant alleges. (Factual Findings 3 through 21; Legal Conclusions 1(b) through 1(e).)

1(b). The Amended Statement of Issues, paragraph 19, asserts that Respondent's application is subject to denial under Business and Professions Code section 2221, subdivision (a) and 2234, subdivision (d), "based upon the findings of the PACE Program." However, Business and Professions Code section 2221 does not contain the basis for denial asserted by Complainant.

1(c). Business and Professions Code section 2221 provides:

(a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

- (1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.
- (2) Total or partial restrictions on drug prescribing privileges for controlled substances.
- (3) Continuing medical or psychiatric treatment.
- (4) Ongoing participation in a specified rehabilitation program.
- (5) Enrollment and successful completion of a clinical training program.
- (6) Abstention from the use of alcohol or drugs.
- (7) Restrictions against engaging in certain types of medical practice.
- (8) Compliance with all provisions of this chapter.
- (9) Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

(c) The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the



Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

1(d). According to Business and Professions Code section 2234, subdivision (d), unprofessional conduct includes "incompetence."

1(e). Complainant did not establish that successful completion of PACE with a recommendation for additional CME hours was a basis for denial of a license application under Business and Professions Code section 2221 or 2234, subdivision (d). The evidence did not establish that Respondent engaged in unprofessional conduct or that he demonstrated incompetence. Rather, PACE concluded that Respondent's overall performance as a physician was satisfactory.

2(a). Cause does not exist to deny Respondent's application for a physician's and surgeon's license, pursuant to Business and Professions Code sections 2234, subdivision (a) and (e), and 480, subdivisions (a)(2) and (a)(3), on the grounds of dishonesty, as Complainant alleges. (Factual Findings 3 through 21; Legal Conclusion 2(b).)

2(b). Although Respondent provided inaccurate information in his application, he did not intend to deceive, and the inaccuracies pertained to events from decades prior. Respondent included the caveat in his application that the information he was providing was based on his best recollection and that he was not trying to be deceitful. Moreover, specifically regarding the Loma Linda residency issue, Respondent's fallacy pertains to facts which are immaterial to determining Respondent's current fitness to practice medicine. Respondent was licensed and practiced medicine for 20 years without discipline following completion of his residency, and at this point in time, his performance as a resident is inessential to the re-issuance of his license. The insignificance of his residency to the current determination of fitness is underscored by fact that Complainant's denial letter and original Statement of Issues did not include allegations pertaining to the Loma Linda inaccuracies.

3. Cause does not exist to deny Respondent's application for a physician's and surgeon's license, pursuant to Business and Professions Code sections 2052, 2054 or 2234, in that Complainant failed to prove that Respondent is holding himself out as a physician and surgeon. (Factual Finding 21.)







## ORDER

Respondent Paul Milciades Lopez's application for a Physician's and Surgeon's License is granted. The license shall be immediately subject to the issuance of a public letter of reprimand for failure to complete required additional CME hours as ordered; however, the issuance of the public letter of reprimand shall be stayed, and Respondent's license shall be placed on probation for two years subject to the following conditions:<sup>4</sup>

### 1. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 50 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 75 hours of CME of which 50 hours were in satisfaction of this condition.

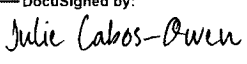
### 2. Violation of Probation

Failure to fully comply with the above condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed (i.e. issuance of a public letter of reprimand for failure to complete required additional CME hours as ordered). If an Accusation, Petition to Revoke Probation, or Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

### 3. Completion of Probation

Upon successful completion of probation, respondent's certificate shall be fully restored.

DATED: March 9, 2016

DocuSigned by:  
  
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\_\_\_\_\_  
JULIE CABOS-OWEN  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>4</sup> The Board is authorized to issue a public letter of reprimand pursuant to Business and Professions Code section 2227, subdivision (a)(4).



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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Statement  
of Issues Against:

Case No. 800-2015-016095

12 **PAUL MILCIADES LOPEZ**

13 **502 West Valley Blvd.**  
14 **Colton, CA 92324**

**FIRST AMENDED STATEMENT  
OF ISSUES**

15  
16 Applicant/Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Statement of Issues  
20 solely in her official capacity as the Executive Director of the Medical Board of California,  
21 Department of Consumer Affairs.

22 2. On or about July 30, 1981, the Medical Board of California, Department of Consumer  
23 Affairs ("Board"), issued Physician and Surgeon's Certificate No. A 37210 to Pablo Milciades  
24 Lopez, M.D. On or about May 5, 1987, Pablo Milciades Lopez, M.D. changed his name with the  
25 Board to Paul Milciades Lopez, M.D. On or about September 6, 2000, the application of Paul  
26 Milciades Lopez to renew his Physician and Surgeon's Certificate was denied under Family Code  
27 section 17520 (failure to pay child support), and the license was suspended. On or about January  
28 31, 2001, Physician and Surgeon's Certificate No. A 37210 expired; the license could not be



1 renewed due to his continuing failure to comply with child support orders. On or about  
2 November 16, 2005, Physician and Surgeon's Certificate No. A 32710 was canceled, and Paul  
3 Milciades Lopez could not practice medicine in the State of California without applying for and  
4 being granted a new license. The license suspension under Family Code section 17520 was in  
5 effect at the time of cancellation. A State License Release indicating that Paul Milciades Lopez  
6 had fulfilled his child support obligations was not obtained before the license was canceled under  
7 Business and Professions Code section 2428(a).

8 3. On or about January 15, 1987, the Board issued to Respondent Fictitious Name  
9 Permit (FNP) No. 13285 for Colton Valley Medical Group, Inc. at 502 W. Valley Blvd., Colton,  
10 CA. The FNP was canceled before January 1, 2001.

11 4. On or about July 29, 2014, the Medical Board of California, Department of Consumer  
12 Affairs received an application for a Physician and Surgeon's Certificate from  
13 Applicant/Respondent Paul Milciades Lopez ("Respondent"). On or about June 30, 2014, Paul  
14 Milciades Lopez certified under penalty of perjury to the truthfulness of all statements, answers,  
15 and representations in the application. The Board denied the application on September 17, 2015.  
16 On September 17, 2015, Respondent requested a hearing on the denial of his application.

#### 17 JURISDICTION

18 5. This Statement of Issues is brought before the Medical Board of California (Board),  
19 Department of Consumer Affairs, under the authority of the following laws. All section  
20 references are to the Business and Professions Code unless otherwise indicated.

21 6. Section 2428 of the Code states:

22 "(a) A person who fails to renew his license within five years after its  
23 expiration may not renew it, and it may not be reissued, reinstated, or restored  
thereafter, but that person may apply for and obtain a new license if he or she.

24 "(1) Has not committed any acts or crimes constituting grounds for denial  
25 of licensure under Division 1.5 (commencing with Section 475).

26 "(2) Takes and passes the examination, if any, which would be required  
27 of him or her if application for licensure was being made for the first time, or  
28 otherwise establishes to the satisfaction of the licensing authority that passes on the  
qualifications of applicants for the license that, with due regard for the public interest,  
he or she is qualified to practice the profession or activity for which the applicant was  
originally licensed.



1           “(3) Pays all of the fees that would be required if application for licensure  
2 was being made for the first time.

3           “The licensing authority may provide for the waiver or refund of all or  
4 any part of an examination fee in those cases in which a license is issued without an  
5 examination pursuant to this section.

6           “Nothing in this section shall be construed to authorize the issuance of a  
7 license for a professional activity or system or mode of healing for which licenses are  
8 no longer required.

9           “(b) In addition to the requirements set forth in subdivision (a), an  
10 applicant shall establish that he or she meets one of the following requirements: (1)  
11 satisfactory completion of at least two years of approved postgraduate training; (2)  
12 certification by a specialty board approved by the Division of Licensing pursuant to  
13 subdivision (h) of section 651; or (3) passing of the clinical competency written  
14 examination.

15           “(c) Subdivision (a) shall apply to persons who held licenses to practice  
16 podiatric medicine except that those persons who failed to renew their licenses within  
17 three years after its expiration may not renew it, and it may not be reissued, reinstated,  
18 or restored, except in accordance with subdivision (a).”

19       7.     Section 2221 of the Code states:

20           “(a) The board may deny a physician's and surgeon's license to any  
21 applicant guilty of unprofessional conduct or of any cause that would subject a  
22 licensee to revocation or suspension of his or her license; or, the board, in its sole  
23 discretion, may issue a probationary physician's and surgeon's certificate to an  
24 applicant subject to terms and conditions, including, but not limited to, any of the  
25 following conditions of probation:

26           “(1) Practice limited to a supervised, structured environment where the  
27 licensee's activities shall be supervised by another physician and surgeon.

28           “(2) Total or partial restrictions on drug prescribing privileges for  
controlled substances.

          “(3) Continuing medical or psychiatric treatment.

          “(4) Ongoing participation in a specified rehabilitation program.

          “(5) Enrollment and successful completion of a clinical training program.

          “(6) Abstention from the use of alcohol or drugs.

          “(7) Restrictions against engaging in certain types of medical practice.

          “(8) Compliance with all provisions of this chapter.

          “(9) Payment of the cost of probation monitoring.

          “(b) The board may modify or terminate the terms and conditions  
imposed on the probationary certificate upon receipt of a petition from the licensee.  
The board may assign the petition to an administrative law judge designated in  
Section 11371 of the Government Code. After a hearing on the petition, the



administrative law judge shall provide a proposed decision to the board.

“(c) The board shall deny a physician’s and surgeon’s certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

“(d) An applicant shall not be eligible to reapply for a physician’s and surgeon’s certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.”

8. Section 2004 of the Code states:

“The board shall have the responsibility for the following:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

“(b) The administration and hearing of disciplinary actions.

“(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

“(f) Approving undergraduate and graduate medical education programs.

“(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

“(h) Issuing licenses and certificates under the board's jurisdiction.

“(i) Administering the board's continuing medical education program.”

9. Section 2001.1 of the Code states: “Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

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1           10.     Section 2234 of the Code states, in pertinent part:

2                   “The board shall take action against any licensee who is charged with  
3                   unprofessional conduct. In addition to other provisions of this article, unprofessional  
4                   conduct includes, but is not limited to, the following:

5                   “(a) Violating or attempting to violate, directly or indirectly, assisting in  
6                   or abetting the violation of, or conspiring to violate any provision of this chapter.

7                   “                   .                   .                   .                   .

8                   “(d) Incompetence.

9                   “(e) The commission of any act involving dishonesty or corruption that is  
10                   substantially related to the qualifications, functions, or duties of a physician and  
11                   surgeon.

12                   “                   .                   .                   .                   .                   .”

13           11.     Section 480 of the Code provides, in pertinent part:

14                   “(a) A board may deny a license regulated by this code on the grounds  
15                   that the applicant has one of the following:

16                   “                   .                   .                   .                   .

17                   “(2) Done any act involving dishonesty, fraud, or deceit with the intent to  
18                   substantially benefit himself or herself or another, or substantially injure another.

19                   “(3)(A) Done any act that if done by a licentiate of the business or  
20                   profession in question, would be grounds for suspension or revocation of the license.

21                   “(B) The board may deny a license pursuant to this subdivision only if the  
22                   crime or act is substantially related to qualifications, functions, or duties of the  
23                   business or profession for which application is made.

24                   “                   .                   .                   .                   .

25                   “(d) A board may deny a license regulated by this code on the ground that  
26                   the applicant knowingly made a false statement of fact that is required to be revealed  
27                   in the application for the license.”

28           12.     Section 2052 of the Code states, in pertinent part:

                 “(a) Notwithstanding Section 146, any person who practices or attempts  
to practice, or who advertises or holds himself or herself out as practicing, any system  
or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates  
for, or prescribes for any ailment, blemish, deformity, disease, disfigurement,  
disorder, injury, or other physical or mental condition of any person, without having  
at the time of doing so a valid, unrevoked, or unsuspended certificate as provided in  
this chapter or without being authorized to perform the act pursuant to a certificate  
obtained in accordance with some other provision of law is guilty of a public offense .

...



1                   “(b) Any person who conspires with or aids or abets another to commit  
any act described in subdivision (a) is guilty of a public offense . . . .

2                   “(c) The remedy provided in this section shall not preclude any other  
3                   remedy provided by law.

4                   13.     Section 2054 of the Code provides, in pertinent part:

5                   “(a) Any person who uses in any sign, business card, or letterhead, or, in  
6                   an advertisement, the words ‘doctor’ or ‘physician,’ the letters or prefix ‘Dr.,’ the  
7                   initials ‘M.D.’ or any other terms or letters indicating or implying that he or she is a  
8                   physician and surgeon, physician, surgeon, or practitioner under the terms of this or  
9                   any other law, or that he or she is entitled to practice hereunder, or who represents or  
holds himself or herself out as a physician and surgeon, physician, surgeon, or  
practitioner under the terms of this or any other law, without having at the time of so  
doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon  
under this chapter, is guilty of a misdemeanor.

10                   “ . . . . ”

11                   FIRST CAUSE FOR DENIAL OF APPLICATION  
12                   (Incompetence)

13                   14.     Respondent's application is subject to denial under section 2221 of the Code. The  
14                   circumstances are as follows:

15                   15.     On or about July 18, 2014, Respondent submitted a Physician and Surgeon's License  
16                   Application, reapplying for his California medical license which was canceled in November 2005.  
17                   Respondent submitted with his application a copy of his State License Release from the State of  
18                   California Health and Human Services Agency, Department of Child Support Services, which  
19                   was dated April 17, 2014.

20                   16.     Upon reviewing Respondent's application and noting that he had not practiced  
21                   medicine in California or any other state for approximately 14 years, the Board's Licensing  
22                   Program indicated to Respondent under Business and Professions Code section 2428(a)(2) that he  
23                   should apply for and successfully complete the Physician Assessment and Clinical Education  
24                   (PACE) Program at the University of California San Diego School of Medicine (UCSD) or its  
25                   equivalent in order to establish to the satisfaction of the licensing authority, with due regard for  
26                   the public interest, that Respondent was presently qualified to practice medicine. Respondent  
27                   accepted the Board's condition and enrolled in the PACE Program.



1           17. Respondent completed Phase I of the PACE Program on November 6-7, 2014 and  
2 completed Phase II on April 6-10, 2015. The PACE Program issued its report on Respondent's  
3 performance to the Board on June 15, 2015. In Phase I of the Program, a two-day assessment  
4 program, the report indicated that Respondent's performance on the history and physical  
5 examination was minimally acceptable. Although his performance on the oral clinical  
6 examination was acceptable, he performed in the unsatisfactory range on two cases and displayed  
7 low average medical knowledge overall. On the case management examination and interview, his  
8 performance was acceptable. On written examinations, he scored in the 22<sup>nd</sup> percentile in the  
9 ethics and communications examination, in the 79<sup>th</sup> percentile in the Internal Medicine Clinical  
10 Science Subject Examination, and in the 24<sup>th</sup> percentile in the Mechanisms of Disease  
11 examination. The recommendation was that Respondent return for Phase II of the Program for  
12 clinical education. The impression of the examiners after Phase I was that Respondent could  
13 return to the practice of medicine under supervision.

14           18. Respondent participated in Phase II of the PACE Program four months later from  
15 April 6-10, 2015. Respondent's performance in Phase II was satisfactory. He performed  
16 adequately on the clinical observation with the UCSD Internal Medicine faculty and performed  
17 acceptably on the Standardized Patient Evaluation. However, it was noted that Respondent's  
18 knowledge of medicine was outdated. It was recommended that Respondent could return to  
19 practice but should be required to take additional Continuing Medical Education (CME) courses  
20 during the first two years of his return to practice, specifically 50 extra CME credits per year.

21           19. Based upon the PACE Program assessment, pursuant to section 2221(a) of the Code,  
22 the Board's Licensing Program, in its sole discretion, offered Respondent a probationary license  
23 with terms and conditions including no solo practice and 50 extra units of CME per year of  
24 probation. Respondent declined the terms of the probationary license. The Board therefore denied  
25 the license application based upon the findings of the PACE Program under sections 2221(a) and  
26 2234(d) of the Code.

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1 SECOND CAUSES FOR DENIAL OF APPLICATION  
2 (Dishonest Acts)

3 20. On page L1C of his license application, Respondent answered "No" to the  
4 following questions concerning "Circumstances During Postgraduate Training:

5 "24. Have you ever received partial or no credit for a postgraduate training program?

6 "27. Have you ever resigned from a program?

7 "28. Were you ever placed on probation for any reason?

8 "29. Were you ever disciplined or placed under investigation?

9 "30. Were any incident reports ever filed by instructors?"

10 21. On or about September 19, 2014, Loma Linda University Medical Center submitted  
11 to the Board a Certificate of Completion of ACGME/RCPSC Postgraduate Training. On this  
12 certificate, certified under penalty of perjury by the program director, under "Unusual  
13 Circumstances," the answers to the following questions were, "Yes":

14 "1. Did the applicant receive partial or no credit for any postgraduate training year?

15 "4. Did the applicant ever resign?

16 "5. Was the applicant ever placed on probation?

17 "6. Was the applicant ever disciplined or placed under investigation?

18 "7. Were any incident reports regarding this applicant ever filed by instructors?

19 22. After receiving Loma Linda University's Certificate dated September 19, 2014, the  
20 Board's Licensing Program requested a response from Respondent concerning the information on  
21 that report. In a letter to the Board dated November 17, 2014, Respondent stated that the Internal  
22 Medicine Residency Program Director, Dr. J.C., considered him to be one of the best residents  
23 and that his problems in the residency program stemmed from personal animosity exhibited  
24 toward him by one of his instructors in Gastroenterology. Respondent indicated that he had  
25 discussed this problem with Dr. J.C., and since he had already completed three and one-half (3 1/2)  
26 years of residency and was eligible to take the boards in Internal Medicine, Dr. J.C. indicated that  
27 Respondent could leave the program and take the position in private practice that had been  
28 offered to him. Respondent further stated that Dr. J.C. indicated that he would support



1 Respondent's application for board certification in Internal Medicine and wrote a  
2 recommendation for the private practice position Respondent had been offered. Moreover, he  
3 indicated that he submitted a letter of resignation at Dr. J.C.'s instruction because it was needed  
4 for him to leave the program. Respondent specifically stated in this letter that Dr. J.C. never  
5 mentioned that there was a specific complaint against him or that he was on probation.

6 23. In response to an inquiry to Loma Linda by the Board, the Graduate Medical  
7 Education Office of Loma Linda University, in a letter dated December 10, 2014, enclosed a  
8 dictated letter from Respondent's file dated July 15, 1986 describing Respondent's circumstances  
9 while attending their Internal Medicine residency program from September 1, 1981 to February  
10 28, 1983 and enclosing reports from Respondent's Loma Linda file containing evaluations,  
11 incident reports from instructors and colleagues, and letters to the program director, Dr. J.C.,  
12 expressing concerns about Respondent's performance in the residency program and letters from  
13 Dr. J.C. to Respondent expressing those concerns and asking for improvement.

14 24. In a letter to Respondent dated July 27, 1982, Dr. J.C. indicated reports from  
15 instructors concerning absence and tardiness to teaching activities and inappropriate diagnosis and  
16 treatment. This letter expressly stated that further investigation was to be conducted, and  
17 significant improvement, probation, failure of endorsement to the Board of Internal Medicine, or  
18 dismissal from the program might result. In a letter to Respondent dated August 3, 1982, Dr. J.C.  
19 memorialized a meeting on that date which entailed reviewing the complaints made and a promise  
20 of improvement from Respondent with a reevaluation in two months. In a letter to Respondent  
21 dated the following day, August 4, 1982, Dr. J.C. outlined further complaints concerning an  
22 incomplete and inadequate physical examination of a patient on August 3, 1982 and the fact that  
23 Respondent had not been volunteering at a free clinic for disadvantaged persons; he was being  
24 paid a fee for his medical services. A warning was issued that if further investigation proved  
25 these things to be true, steps would be taken to place Respondent on probation.

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1           25. In a letter to Respondent from Dr. J.C. dated October 19, 1982, based upon a House  
2 Staff Evaluation form for the month of September 1982, Respondent was placed on probation for  
3 four (4) months from November 1982 through February 1983. In a letter to Respondent dated  
4 March 1, 1983, Dr. J.C. informed Respondent that he, along with the Residency Evaluation  
5 Committee, failed to meet the terms of his probation and that that Committee voted to  
6 recommend to the Resident Administrative Committee and the Graduate Medical Education  
7 Committee that Respondent's employment in the residency program be terminated with 30 days  
8 notice. In a letter to Respondent dated March 7, 1983, Dr. J.C. informed Respondent that the  
9 Residency Administrative Committee of the Department of Medicine felt that Respondent's  
10 performance left the program with no alternative but to terminate Respondent's residency  
11 training. Respondent was allowed to resign from the residency program in lieu of termination.

12           26. Respondent's "No" answers on his application concerning his postgraduate training  
13 program and his misrepresentations to the Licensing Program as to circumstances surrounding his  
14 resignation from the Loma Linda University residency program in Internal Medicine constitute  
15 acts of dishonesty substantially related to the qualifications, functions, or duties of a physician and  
16 surgeon under sections 2234(a) and (e) of the Code and therefore, cause for denial of  
17 Respondent's application under sections 480(a)(2) and (a)(3). Respondent's conduct also is  
18 further cause for denial of his application under section 480(c) of the Code in that he made false  
19 statements of fact in his application for licensure.

20                           THIRD CAUSES FOR DENIAL OF APPLICATION  
21                           (Holding Himself Out as a Physician and Surgeon)

22           27. In a document entitled "Timeline of Activities" signed August 27, 2014 and  
23 submitted to the Board as part of his licensing application, Respondent indicated that from July  
24 10, 2011 to August 27, 2014, Respondent worked reviewing medical records, including electronic  
25 medical records, at Colton Medical Care, Inc. in Colton, California. Internet postings for Colton  
26 Valley Medical Care, Inc., Colton Valley Medical Group, and Colton Valley Medical Care  
27 indicate the following:  
28



1 a. A current website for Colton Valley Medical Care indicating that the address of the  
2 clinic is 502 W. Valley Blvd., Colton CA 92324, Respondent's address on his application and his  
3 address of record with the Board before his license was suspended in 2000. No physician names  
4 are posted on the website, but Internet advertisements referring to this clinic lead back to this site.

5 b. Many website references including Lopez, Paul M. MD Colton Valley Medical Group  
6 at the same address and referencing Colton Valley Medical Care website, which can accessed  
7 from the advertisements.

8 c. Reference in a Yellow Pages website to Colton Valley Medical Group at the same  
9 address listing Respondent as Colton Valley Medical Group and the current holder of the FNP for  
10 Colton Valley Medical Care, Inc. as medical personnel at the clinic.

11 28. Internet postings under Paul M. Lopez, M.D., Lopez, Paul M.D., or Dr. Paul Lopez  
12 indicate his practice at the same address with and without reference to Colton Valley Medical.

13 29. The Internet site, healthgrades.com, indicates that Dr. Paul M. Lopez M.D. is no  
14 longer practicing, but lists Respondent's current age. Respondent's license was suspended in  
15 2000. There is no indication in the other websites that Respondent is not in practice, in fact some  
16 sites post clinic hours and include a page where appointments can be made.

17 30. Respondent's application is subject to denial under section 480(a)(2), 2052, 2054,  
18 2234, and 2234(e) of the Code in that he held himself out to be a practicing physician and surgeon  
19 and referred to himself as "Dr." and "M.D." in Internet advertisements and postings at a time  
20 when he held no valid, unrevoked, and unsuspended Physician and Surgeon's Certificate.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Medical Board of California issue a decision:

24 1. Denying the application of Paul Milciades Lopez for a Physician and Surgeon's  
25 Certificate; and

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2. Taking such other and further action as deemed necessary and proper.

DATED: December 15, 2015



KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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